

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1180**

Introduced by Thompson, 14

Read first time January 18, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to criminal procedure; to amend sections  
2 29-401 and 29-1816, Reissue Revised Statutes of Nebraska;  
3 to change and eliminate provisions relating to juvenile  
4 arrest and waiver or transfer to juvenile court; to  
5 repeal the original sections; and to outright repeal  
6 section 43-261, Reissue Revised Statutes of Nebraska.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 29-401, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           29-401 Every sheriff, deputy sheriff, marshal, deputy  
4 marshal, security guard, police officer, or peace officer as  
5 defined in subdivision (15) of section 49-801 shall arrest and  
6 detain any person found violating any law of this state or any  
7 legal ordinance of any city or incorporated village until a legal  
8 warrant can be obtained, except that (1) any such law enforcement  
9 officer taking a juvenile under the age of eighteen years into his  
10 or her custody for any violation ~~herein defined~~ of any law of this  
11 state or any legal ordinance of any city or incorporated village  
12 shall proceed as set forth in sections 43-248, 43-250, and 43-253  
13 and (2) the court in which the juvenile is to appear shall not  
14 accept a plea from the juvenile until finding that the parents  
15 of the juvenile have been notified or that reasonable efforts to  
16 notify such parents have been made as provided in section 43-253.

17           Sec. 2. Section 29-1816, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           29-1816 The accused shall be arraigned by reading to him  
20 or her the indictment or information, unless the reading is waived  
21 by the accused when the nature of the charge is made known to him  
22 or her. The accused shall then be asked whether he or she is guilty  
23 or not guilty of the offense charged. If the accused appears in  
24 person and by counsel and goes to trial before a jury regularly  
25 impaneled and sworn, he or she shall be deemed to have waived

1 arraignment and a plea of not guilty shall be deemed to have been  
2 made.

3           At the time of the arraignment the court shall advise  
4 the defendant, if he or she was less than eighteen years of age  
5 at the time of the commitment of the alleged crime, that he or  
6 she may move the county or district court at any time not later  
7 than fifteen days before trial thirty days after arraignment,  
8 unless otherwise permitted by the court for good cause shown,  
9 to waive jurisdiction in such case to the juvenile court for  
10 further proceedings under the Nebraska Juvenile Code. The court  
11 shall schedule a hearing on such motion within fifteen days. The  
12 customary rules of evidence shall not be followed at such hearing.  
13 The county attorney shall present the evidence and reasons why such  
14 case should be retained, the defendant shall present the evidence  
15 and reasons why the case should be transferred, and both sides  
16 shall consider the criteria set forth in section 43-276. ~~After~~  
17 ~~considering all the evidence and reasons presented by both parties,~~  
18 ~~pursuant to section 43-276, the case shall be transferred unless a~~  
19 ~~sound basis exists for retaining the case.~~

20           In deciding such motion the court shall consider, among  
21 other matters, the matters set forth in section 43-276 for  
22 consideration by the county attorney when determining the type  
23 of case to file.

24           The court shall set forth findings for the reason for  
25 its decision, which shall not be a final order for the purpose

1 of enabling an appeal. If the court determines that the child  
2 should be transferred to the juvenile court, the complete file in  
3 the county or district court shall be transferred to the juvenile  
4 court and the indictment or information may be used in place of a  
5 petition therein. The court making a transfer shall order the minor  
6 to be taken forthwith to the juvenile court and designate where the  
7 minor shall be kept pending determination by the juvenile court.  
8 The juvenile court shall then proceed as provided in the Nebraska  
9 Juvenile Code.

10           Sec. 3. Original sections 29-401 and 29-1816, Reissue  
11 Revised Statutes of Nebraska, are repealed.

12           Sec. 4. The following section is outright repealed:  
13 Section 43-261, Reissue Revised Statutes of Nebraska.